CIDAC CDTL446
Centro de Documentação
1986

ASIA WATCH

739 Eighth Street SE, Washington DC 20003
(202) 546-9336

ADRIAN DEWIND
Chairman
■
ARYEH NEIER
Vice Chairman

TESTIMONY OF FLOYD ABRAMS

ON BEHALF OF THE ASIA WATCH COMMITTEE

FRIDAY, AUGUST 15, 1986

UNITED NATIONS SPECIAL COMMITTEE ON DECOLONIZATION

Mr. Chairman, I appreciate the opportunity to testify with respect to East Timor before the Special Committee on Decolonization. My name is Floyd Abrams, and I am a New York-based attorney specializing in constitutional law relating to freedom of expression. I have practiced law in that area, taught it at Yale and Columbia law schools, and written and testified about it frequently. I have as well chaired Committees of the American Bar Association on Freedom of Expression, and Freedom of Speech and the Press. I have also served on the boards of several international human rights monitoring groups, including the Americas Watch Committee, the Lawyers Committee for Human Rights, and the Asia Watch Committee.

Asia Watch Board of Directors ■ Edward J. Baker ■ Robert L. Bernstein ■ Tom Bernstein ■ Jack Greenberg ■ David Hawk ■ Liang Heng ■ Jeri Laber ■ Virginia Leary ■ Barnett Rubin ■ Orville Schell ■ Judith Shapiro

The Fund for Free Expression is the parent organization of the Americas Watch, Helsinki Watch and Asia Watch

The Fund for Free Expression Board of Directors ■ Robert L. Bernstein, Chairman ■ Alice Arlen ■ Tom Bernstein ■ Geoffrey Cowan ■ Dorothy Cullman ■ Patricia Derian Irene Diamond ■ E. L. Doctorow ■ Theodor S. Geisel ■ Pam Hill ■ Joseph Hofheimer ■ Lawrence Hughes ■ Anne Johnson ■ Mark Kaplan ■ Winthrop Knowlton ■ William Koshland ■ Jeri Laber John Leonard ■ Anthony Lewis ■ William Loverd ■ John Marcae III ■ Nancy Meiselas ■ The Rt. Rev. Paul Moore, Jr. ■ Arthur Miller ■ Marc Miller ■ Geoffrey Cobb Ryan Orville H. Schell ■ Alan U. Schwartz ■ Jerome Shestack ■ Rose Styron ■ Hector Timerman ■ Marietta Tree ■ John Updike ■ Kurt Vonnegut, Jr. ■ Gregory J. Wallance ■ Morris West

I testify today on behalf of Asia Watch, a committee established by the Fund for Free Expression in 1985 to monitor and promote internationally recognized human rights in Asia. Asia Watch is affiliated with the Americas Watch and Helsinki Watch Committees. Over the past year, Asia Watch has committed significant resources to researching and reporting on human rights issues in East Timor, and we believe our information and observations will be useful to the work of the Special Committee.

Since 1975, human rights monitors have received continual reports from East Timor on the killing of non-combatants, extrajudicial executions, torture and detention without trial. Armed confict between independence forces and the Indonesian military continues in 1986, as do repeated reports of human rights abuses. It is difficult to confirm all reports received from the territory or to obtain an accurate assessment of the degree of human rights violations, as the Indonesian government maintains a policy of near complete denial of free expression, association, or contact with the outside world for East Timorese. Even the Catholic Church in East Timor is subject to such limitations. Church sources have repeatedly indicated that religious leaders in both East Timor and Indonesia have been sternly warned by Indonesian military officials against making statements on the human rights situation in the territory. As the former Acting Bishop of the Roman Catholic Church, Martinho da Costa Lopes, stated last year:

> In such an atmosphere, the average person in East Timor would be even more reluctant to speak with any outsider. Traumatized by a conflict that has seen many thousands of East Timorese killed and imprisoned since Indonesia invaded the territory in 1975, and well aware that most visits by foreigners are designed to advance Indonesian political goals, most East Timorese would just as soon protect themselves and keep quiet. There are exceptions, of course, but those who defy the rules as defined by Jakarta risk lengthy interrogation, imprisonment, or worse.

In light of these circumstances, it is important to note that independent human rights organizations have been denied permission by the Indonesian authorities to carry out on-the-spot investigations of the situation in East Timor. Early last month, Asia Watch itself was denied such permission. Moreover, the Indonesian government has barred visits by persons with greatest capacity to assess conditions in East Timor: recognized experts and others who lived in the territory at great length prior to the Indonesian invasion. Such people speak and understand local languages and thus would be in a position to communicate with the inhabitants of the territory without intermediaries, assuming the proper conditions for such discussions. That visits by such people have not been allowed -- more than 10 years after the Indonesian invasion of the territory -- speaks eloquently and sadly of the government's desire to hide the situation in East Timor from scrutiny of the international community.

Foreign visitors who have been permitted access to the territory are generally subject to strict limitations on their movements. The Indonesian military controls most of the

transportation arrangements for such visits, and the authorities vigilantly resist efforts by visitors to break free from such control. For example, an East Timorese taxi driver who drove foreign journalists to an Indonesian military cemetary last year was reportedly arrested and interrogated for this "offense".

The importance of free access to East Timor by outsiders cannot be overestimated. A deliberate policy of allowing brief, infrequent visits by some -- while totally banning those thought to be too experienced or knowledgeable -- clearly indicates that the government is not prepared to allow authentic scrutiny of its actions in East Timor. Moreover, all but a tiny handful of foreign visitors are forced to rely on interpreters provided by the Indonesian government. Would the Special Committee or any other United Nations agency willingly accept such arrangements in any other territory within its mandate? Without reasonable access, there is no basis for reasonable assessment. And there is surely no basis for assuming that Indonesian claims on human rights conditions in East Timor are valid. Nor can visits by foreign political figures, whatever their nationality or intentions, substitute for authentic investigations that would begin to reflect the views of the inhabitants of the territory and accurately assess conditions. Finally, I note that there are few places in the world where outsiders cannot visit as tourists. East Timor is one, and this only adds to the understandably

widespread perception that the situation in the territory is far from the tranquil one the Indonesian authorities maintain it is.

Asia Watch believes that restrictions on information and movement also make it extremely difficult to recognize and respond adequately to important humanitarian needs in the territory. Reports we have received indicate an exceptionally high mortality rate among children between the ages of one and five in the Baucau region of East Timor. And according to our information, this problem is not limited to the Baucau region. We appeal both to the government and to responsible international organizations to facilitate proper nutritional and medical care for people in need as quickly as possible. We also urge the Indonesian government to grant full access for agencies seeking to address these problems.

Apart from the absence of normal contact with the outside world that is itself ground for suspicion and deepest concern, there are added reasons to fear for the state of human rights in East Timor. For the information we have been able to receive suggests such fear is justified. There are reports from the territory that detainees in the Los Palos district of East Timor were tortured in 1985, and that authorities have continued to apply summary justice outside of Dili, the capital. A recent article in the Indonesian daily, Sinar Harapan, reported:

> Since the only district court in East Timor is in Dili, the [authorities] ... often execute summary justice on the spot [emphasis added], far from Dili, because it would cost time

and money to bring the persons to Dili for trial.

Asia Watch is also deeply concerned about the health and well-being of East Timorese detainees. Over a period of several years human rights organizations have received reports of prisoners being denied adequate food and medical care, which in at least some cases, has lead to slow and painful death from tuberculosis. The Asia Watch appeals to the Special Committee to urge the Indonesian government to ensure appropriate medical and nutritional care for all East Timorese detainees. Asia Watch also notes that detainees "released" from Atauro Island have not been permitted to return to their homes, but are being held in "resettlement centers" where their movements are restricted.

Asia Watch is concerned as well about the fairness of continuing "subversion trials" in East Timor. The circumstances surrounding the trials strongly suggest absence of proper procedure. By the end of 1985, some 200 Timorese suspected of involvement in the independence movement had been tried and convicted. Remarkably -- regrettably we fear, not remarkably -- all the defendants were reported to have pleaded guilty. None have appealed their convictions. There is strong reason to suspect that prisoners fear retribution for even minimal exercise of their legal rights. According to local press reports and the Far Eastern Economic Review, prisoners have been encouraged to proceed in this manner by a handful of government-appointed lawyers flown into East Timor to handle these cases. A recent

statement by the Indonesian Chief Judge in Dili is hardly reassuring. He said:

> If all trials proceeded as they do here in East Timor, the job of our law enforcement officers would be very easy indeed.

In these circumstances, we believe it essential that the United Nations strongly urge the Indonesian government to allow international trial observation in East Timor.

At the same time, Asia Watch notes recent reports that the Indonesian government may make a special attempt to present Timorese participation in 1987 Indonesian national elections as a legitimate expression of Timorese desire to integrate with Indonesia. This Committee should reject any such inference from the simple act of participation in an election. Moreover, past experience in the territory gives us reason to fear that the results of any election -- even a plebiscite on the future of the territory -- would not represent a free and fair expression of the will of the people of East Timor. More than 10 years ago the Indonesian government convened an East Timorese "People's Assembly" that was said to have requested union with Indonesia. As the members of this Committee are aware, no international legal authority has accepted this exercise as a expression of the will of the people of East Timor. There is the strongest basis for concern about the fairness of any vote held under Indonesian government auspices in 1987, given the atmosphere of fear and

coercion that still exists in East Timor and the continuing armed conflict in the territory. Thus we would urge the most careful and demanding scrutiny of any such exercise. Finally, if the Indonesian government is indeed confident that such a vote will be free and fair, we would expect it to permit free access for independent election observers in the several weeks leading up to, and including the ballot count.

Until satisfied that a free and fair expression of the popular will has taken place, the Committee should not ratify a government claim that the Timorese people favor integration. A ratification based on the pretext that the Timorese people have made their sentiments known would be a setback for the rights of those in the territory and would erode the credibility and impact of UN efforts to discourage generally the practice of annexation by conquest.

We are aware that the Indonesian government has argued that human rights reporting in East Timor has been biased. While we do not believe this is so, we are prepared to acknowledge that due to factors such as the rigid controls on access to East Timor, inspection of mail, and military control of telephone links to the territory, some reporting may have been inaccurate. There is a quick and sure antidote to this and it lies wholly in the hands of the Indonesian authorities: let the world community view the conditions in East Timor first-hand. Let the world into East Timor and then see the news and views that come out of

East Timor. We urge that the Committee do all within its power to ensure improved access for impartial international observers and to continue to monitor respect for basic human rights in the territory.